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92-77



Federal Communications Commission  
Washington, D.C. 20554

January 14, 1995

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JAN 25 1995

The Honorable Slade Gorton  
United States Senate  
730 Hart Senate Office Building  
Washington, D.C. 20510

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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Dear Senator Gorton:

Thank you for your correspondence on behalf of Mr. Chase Riveland, Secretary, Department of Corrections, State of Washington, regarding the Commission's Billed Party Preference (BPP) proceeding. On May 19, 1994, the Commission adopted a Further Notice of Proposed Rulemaking in this proceeding. I have enclosed a copy of the Further Notice and press release accompanying it for your information.

The Further Notice sets forth a detailed cost/benefit analysis of BPP. This analysis indicates, based on the available data, that the benefits of BPP to consumers would exceed its costs. The Further Notice sought comment on this analysis and asked interested parties to supplement the record concerning the costs and benefits of BPP. The Further Notice also invited parties to recommend alternatives to BPP that could produce many of the same benefits at a lower cost.

The Further Notice also explicitly sought comment on whether correctional facility telephones should be exempt if BPP is adopted. Specifically, the Further Notice sought additional information on the effectiveness and costs of controlling fraud originating on inmate lines with or without BPP. The Further Notice also sought comment on a proposal to exempt prison telephones from BPP if the operator service provider adheres to rate ceilings for inmate calling services.

BPP would not preclude prison officials from blocking or limiting inmate calls to specific telephone numbers in order to prevent threatening and harassing calls. Moreover, BPP would not affect the ability of prison officials to limit inmates to collect calling or to program telephone equipment at the prison site to block certain numbers.

Reply comments were due September 14, 1994. Presently, the Commission is evaluating the comments submitted and considering the implementation of BPP along with other options. I can assure you that the Commission will carefully examine all of the comments submitted in response to the Further Notice, including additional empirical data regarding the costs and benefits of implementing BPP and the impact of BPP on telephone service from correctional facilities.

Sincerely yours,

John E. Logan  
Deputy Director  
Office of Legislative and Inter-governmental Affairs

Enclosures

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October 5, 1994

Congressional Affairs Office  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Congressional Liaison:

I have been asked by a constituent to assist in the matter described in the enclosed correspondence. I am referring this inquiry to you for your consideration.

Please provide the necessary information in duplicate and ~~return~~ the enclosures. Your correspondence should be sent to my Washington, DC office.

Thank you for your prompt attention to this matter.

Sincerely,



Slade Gorton  
United States Senator

SG/cms  
Enclosure



STATE OF WASHINGTON

**DEPARTMENT OF CORRECTIONS**

P.O. Box 41100 • Olympia, Washington 98504-1100 • (206) 753-1573  
FAX Number (206) 586-3676 SCAN 321-3676

August 3, 1994

*Buck to FCC*

The Honorable Slade Gorton  
United States Senate  
730 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Gorton:

**RE: FEDERAL COMMUNICATIONS COMMISSION "BILLED PARTY PREFERENCE"  
(BPP): CC DOCKET NO. 92-77**

The Federal Communications Commission has issued a Further Notice of Proposed Rulemaking in the matter of Billed Party Preference (BPP) to change the way long distance carriers are selected on collect calls from prisons. As presently drafted, it is expected that the Billed Party Preference proposal would eliminate private industry's ability to provide offender telephone service.

Currently, the Washington State Department of Corrections' offender telephone providers supply approximately 940 telephones at 13 prisons, two pre-release facilities, and 14 work/training release facilities. Offenders cannot originate sent-paid calls, nor can they receive telephone calls. State law mandates that "All personal calls made by offenders shall be collect calls only. The operator shall notify the receiver of the call that the call is coming from a prison offender, and that it will be recorded and may be monitored."

The Billed Party Preference proposal poses special problems for confinement facilities and could also be a security threat to the Department. It would allow offenders to have further avenues available to commit or conceal their fraud and harassment by telephone activities. In spite of the most careful of precautions, some offenders do commit criminal activity from within the institution, with one of the most prevalent criminal activities being telephone fraud. Without the specialized offender-only telephones, greater supervision by correctional staff would be required each time an offender uses the telephone. The areas which would be placed at risk or jeopardized include the ability to block calls to specific numbers which prevents or reduces harassing calls; providing real time call detail and special reports which assists in detection and prevention of criminal activity; and providing the capability to listen and/or record which assists institutions in detection and prevention of criminal activities. By having operators announce to the called party that the call is being placed by an offender, ensures that the called party is informed before accepting calls. This provision is state law.

August 3, 1994


There is significant federal precedent to support excluding offender telephone services from Billed Party Preference. It was specifically excluded from the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA), passed by Congress. The Act requires that all pay telephones allow callers to be able to reach the long distance carrier of their choice by dialing access codes. The Act also allows the Commission enforcement action against unjust or unreasonable rates.

Correctional facilities are unique and the Department would like the Federal Communications Commission to continue to recognize the difference. A correctional facility is a controlled environment, not like public areas, where, for example, public telephones may be available. Further, a correctional system must balance a number of needs in providing service, including activity to prevent harassment, fraud, and other crimes. The system must also provide offenders with reasonable access to telephones and people they contact, including family and attorneys. The telephone system does require specialized applications.

In addition, the loss of commissions, which are put in the Offender Welfare Fund and used only for offenders, would severely curtail the level of services currently being provided to the offender population. This Department competitively bid a contract for these services which does not allow rates higher than tariffed by U.S. West and American Telephone and Telegraph with no surcharge to the called party or the Department. Under the proposed rulemaking, telephone companies will control the routing of calls and will be the sole recipient of revenues from long distance companies for passing the calls on.

Finally, correctional facilities must be able to manage offender telephone services in order to provide security and safety to staff, offenders, and the public at large. I therefore respectfully request your support in exempting offender telephone services from the proposed Federal Communications Commission rules, no matter what other decisions are made in this rulemaking.

Sincerely,



Chase Miveland  
Secretary

CR:prh

cc: Margaret Vonheeder, Director, Division of Management and Budget  
Patria Robinson-Martin, Assistant to the Secretary